

REMARKS/ARGUMENTS

Claims 1 to 3, 5 to 15, 17 to 21, 31 to 35, 38 to 45 and 47 to 54 are presented for examination, of which claims 1, 13, 31, 34 and 43 are independent. Claims 4, 16, 36, 37, and 46 have been newly canceled. Reconsideration and further examination re respectfully requested.

Allowable Subject Matter

Applicant thanks the Examiner for the indication of allowable subject matter in Claims 4 to 12, 16 to 21, 37 and 46 to 54.

Claims 46 to 54 were indicated as being allowable if rewritten in independent form. In this regard, the subject matter of claim 46 was incorporated into independent claim 43 and claim 46 was cancelled. As such, claims 43 to 45 and 47 to 54 are now believed to be in condition for allowance.

Claims 4 to 12, 16 to 21 and 37 were indicated as being allowable if rewritten in independent form and amended to overcome the 35 U.S.C. 101 rejections. In this regard, the subject matter of claims 4, 16 and 37 were incorporated into independent claims 1, 13, and 34, respectively. Likewise, independent claim 31 was amended with subject matter substantially consistent with independent apparatus claim 13. As such, claims 1 to 3, 5 to 15, 17 to 21, 31 to 36, and 38 to 42 are believed to be in condition for allowance in view of Applicant's response with regard to the 101 rejections below.

Claim Rejections – 35 USC § 101

Claims 1 to 12, 13 to 21 and 34 to 42 are rejected under 35 USC § 101. In this regard, independent method claims 1 and 34 were amended to articulate the step of "using a computer or processor to perform the steps" listed in the claim. As such, the method claims are now believed to positively recite a practical application of something physical. Applicant believes this amendment is consistent with the USPTO's new guidelines regarding 35 USC § 101.

Likewise independent apparatus claim 13 has been amended to recite "wherein the apparatus is a hardware apparatus." As such, claims 13 to 21 should not be construed as including a software/program enablement. Applicant believes this amendment is consistent with

the USPTO's new guidelines regarding 35 USC § 101. If the Examiner still feels it necessary to maintain the 35 USC § 101 rejection of these claims, Applicant invites the Examiner to conduct an telephonic interview with the undersigned in order to further discuss the rationale.

In light of the comments and amendments described above, Applicant believes Claims 1 to 12, 13 to 21 and 34 to 42 are in compliance with 35 USC § 101. Reconsideration a withdrawal of the 35 USC § 101 rejections are respectfully requested.

Claim Rejections – 35 USC § 102

Claims 1, 13, 15, 31-32, 34, and 38-39 are rejected under 35 USC § 102, as being anticipated by U.S. Patent No. 6,240,135 (issued May 29, 2001, *hereinafter* "Kim"). While not conceding the correctness of this rejection, Applicant's amendments detailed above render this rejection moot.

Claim Rejections – 35 USC § 103

Claims 2, 14, 33, 35, 40 and 43-45 are rejected under 35 USC § 103(a) as being unpatentable over *Kim* in view of U.S. Patent 6,529,634 (issued Mar. 4, 2003, *hereinafter* "Thyagarajan et al.") While not conceding the correctness of this rejection, Applicant's amendments detailed above render this rejection moot.

Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kim* in view of U.S. Patent No. 6,188,799 (issued Feb. 13, 2001, *hereinafter* "Tan et al."). While not conceding the correctness of this rejection, Applicant's amendments detailed above render this rejection moot.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Kim* in view of *Tan et al.* and U.S. Pub. No. 2003/0235250 (filed Jun. 24, 2000, *hereinafter* "Varma et al.") While not conceding the correctness of this rejection, Applicant's amendments detailed above render this rejection moot.

Application No. 10/802,285
Amendment dated January 27, 2009
Reply to Office Action of August 28, 2008

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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By: 

Matthew J. Evans, Reg. No. 56,530

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 651-7571
Facsimile: (858) 845-3983